

MAR 28 2016

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

HOWARD Z. GARNETT,)	CASE NO. 7:16CV00132
)	
Petitioner,)	
v.)	MEMORANDUM OPINION
)	
HAROLD CLARKE, DIRECTOR,)	By: Hon. Glen E. Conrad
)	Chief United States District Judge
Respondent.)	

Howard Z. Garnett, a Virginia inmate proceeding pro se, filed a pleading that this court construed and docketed here as a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254. Garnett challenges the validity of his confinement under a 2004 judgment of the Madison County Circuit Court that convicted him of abduction with intent to defile, rape, animate object penetration, and domestic assault, third offense. After review of the record, the court finds that the petition must be summarily dismissed as successive, pursuant to 28 U.S.C. § 2244(b).¹

Pursuant to § 2244(b), a federal district court may consider a second or successive § 2254 petition only if petitioner secures specific certification from the United States Court of Appeals for the Fourth Circuit that the claims in the petition meet certain criteria. § 2244(b)(3). Court records indicate that Garnett previously filed a § 2254 petition concerning the same judgment that he challenges here. See Garnett v. Clarke, No. 7:14CV00452, 2015 WL 5112967 (W.D. Va. Aug. 31, 2015) (unpublished). Accordingly, Garnett's current petition is a subsequent one, falling under the prohibition in 28 U.S.C. § 2244(b) against a second or successive petition. Thus, it is barred from review on the merits by this court under § 2244(b) without certification by

¹ Under Rule 4(b) of the Rules Governing § 2254 Cases, the court may summarily dismiss a § 2254 petition "[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court."

the Court of Appeals. Because Garnett does not demonstrate that he has obtained such certification, the court will dismiss the petition without prejudice as successive. An appropriate order will enter this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to petitioner.

ENTER: This 28th day of March, 2016.



Chief United States District Judge